

STATEMENT OF

DAVID AGUILAR

CHIEF

**OFFICE OF BORDER PATROL
US CUSTOMS AND BORDER PROTECTION
DEPARTMENT OF HOMELAND SECURITY**

BEFORE THE

UNITED STATES HOUSE

**COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON ECONOMIC SECURITY, INFRASTRUCTURE PROTECTION
AND CYBER SECURITY**

REGARDING

**SOLVING THE OTM UNDOCUMENTED ALIEN PROBLEM:
EXPEDITED REMOVAL FOR APPREHENSIONS ALONG THE U. S. BORDER**

**WEDNESDAY, SEPTEMBER 28, 2005
2:00 PM
ROOM 311 CANNON HOB**

CHAIRMAN LUNDGREN, RANKING MEMBER SANCHEZ, AND OTHER DISTINGUISHED SUBCOMMITTEE MEMBERS,

thank you for the opportunity to appear before you today to discuss the successes and challenges of border security on the southwest border and in particular the recent expansion of the Expedited Removal program, as demonstrated by the operations and law enforcement initiatives of the Office of Border Patrol, a component of U.S. Customs and Border Protection (CBP). My name is David Aguilar, and I am the Chief of the U.S. Border Patrol within CBP.

CBP, as the guardian of the Nation's borders, safeguards the homeland—foremost, by protecting the American public against terrorists and the instruments of terrorism; while at the same time enforcing the laws of the United States and fostering the Nation's economic security through lawful travel and trade. Integral to this mission is the Border Patrol's time-honored duty of interdicting illegal aliens and drugs and those who attempt to smuggle them across our borders between the Ports of Entry. We are concerned that terrorists, seeking to conduct attacks against the U.S. homeland, may exploit illegal human smuggling routes. Reducing illegal migration across our borders may help in disrupting possible attempts by terrorists to enter our country.

CBP Border Patrol's National Strategy has made a centralized chain of command a priority and has increased the effectiveness of our agents by using intelligence driven operations to deploy our resources. Partnerships with Immigration and Customs Enforcement (ICE), Department of the Interior, Department of Justice (DOJ), Drug Enforcement Administration, Federal Bureau of Investigation, Department of Transportation, other interagency partners, state, local, and tribal law enforcement agencies and state Homeland Security offices play a vital role in having and disseminating information and tactical intelligence that assists in a quick response, which is essential to mission success.

Recognizing that we cannot control our borders by merely enforcing at the "line," our strategy incorporates a "defense in depth" component, to include transportation checks away from the physical border. Checkpoints are critical to our patrol efforts, for they deny major routes of egress from the borders to smugglers intent on delivering people, drugs, and other contraband into the interior of the United States. Permanent checkpoints allow CBP Border Patrol to establish an important second layer of defense and help deter illegal entries through improved enforcement.

CBP Border Patrol will continue to assess, develop, and deploy the appropriate mix of technology, personnel, and information sources to gain, maintain, and expand coverage of the border in an effort to use our resources in the most efficient fashion.

Historically, major CBP Border Patrol initiatives, such as *Operation Hold the Line*, *Operation Gatekeeper*, and *Operation Rio Grande* in our El Paso, San Diego, and McAllen Sectors, respectively, have had a dramatic enforcement impact on illegal migration patterns along the southwest border, proving that operational control is possible. Together, they have laid the foundation for newer strategies and enforcement objectives and an ambitious goal to gain control of our Nation's borders, particularly our

border with Mexico. These initiatives continue to significantly affect illegal migration as we seek to bring the proper balance of personnel, equipment, technology, and infrastructure into areas experiencing the greatest level of cross-border illegal activity along our Nation's borders between the Ports of Entry.

Over the past few years, illegal migration patterns have shifted from an urban to a rural environment, presenting a different challenge to our interdiction efforts. As a result, the Arizona Border Control Initiative, currently in Phase Two, was introduced. CBP serves as the operational lead for ABCI, partnering with other DHS agencies, as well as other federal, state, local, and tribal law enforcement agencies, bringing together resources and fused intelligence into a geographical area that has been heavily impacted by smuggling activity. We continue to build a stronger relationship with the Government of Mexico, which continues to take helpful steps to stem the flow of OTMs, to create a safer and more secure border through the Border Safety Initiative and special repatriation programs. In doing so, we continue to enhance our ability to fight terrorism, illegal migration, and crime in that border area.

DHS and the DOJ have partnered to develop the IDENT/IAFIS integrated workstation, which captures a single set of fingerprints and submits them simultaneously to DHS' Automated Biometric Identification System (IDENT) and DOJ's Integrated Automated Fingerprint Identification System (IAFIS) for identity checks. These integrated systems were deployed to all Border Patrol stations in 2004. With immediate access to IAFIS, our Agents have identified thousands of egregious offenders, including murderers, rapists, kidnappers, and drug traffickers, who otherwise may have gone undetected. This is a significant step towards improving national security and greatly enhancing our ability to secure our nation's borders.

The U.S. continues to experience a rising influx of other than Mexican nationals, or OTMs, illegally entering the country. For FY05, non-Mexican illegal aliens (NMIA), often referred to as OTMs, apprehensions are running at a rate of 136% over FY 04's record number of OTM apprehensions on the southwest border, and 119% over the record national FY 04 OTM apprehension figure of 75,389. Border Patrol processes all apprehended OTMs for removal proceedings. The growth in the apprehension of non-Mexican illegal entrant aliens, however, combined with other detention requirements, in many cases leads to their release on their own recognizance.

To address this situation by expediting the removal process for OTMs, in August 2004, DHS issued a Federal Register Notice allowing CBP Border Patrol Agents to place certain illegal aliens, apprehended between the ports of entry within 100 miles of the border and within 14 days of their illegal entry, into Expedited Removal (ER) proceedings. ER proceedings shorten the time spent in detention facilities and eliminate appearances before immigration courts and judges. ER was initially implemented in five Border Patrol sectors. Tucson and Laredo Sectors fully instituted the process, with San Diego, El Centro and Yuma Sectors using ER cases for aliens who would otherwise be subject to a reinstatement of prior orders of removal.

ER is not a new procedure. It was created in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and has been used at ports of entry since 1997. Expedited Removal is a powerful tool that speeds the removal of aliens who are attempting to, or have entered the country illegally. When someone is placed in expedited removal processing, the person is detained and returned to his or her country as soon as circumstances will allow. This drastically shortens the typical detention period and can relieve pressure on detention resources.

As with the implementation of expedited removal at ports of entry over the last nine years, special safeguards are in place. DHS has taken a measured and careful approach to the expansion of expedited removal, and has provided comprehensive training for our agents, to ensure that those who may have legitimate asylum claims will be referred to a Citizenship and Immigration Services (CIS) asylum officer.

Aliens processed in expedited removal are required to be detained by law. This detention, and subsequent removal has had a large deterrent effect. Let me provide you with a specific example: the Rio Grande Sector was experiencing very large numbers of Brazilian-national apprehensions before the ER process was implemented. The Sector had been apprehending an average of 160 Brazilian nationals per day prior to the implementation of the ER process. On July 2, 2005, ER was introduced into the Rio Grande Valley Sector (formerly the McAllen Sector) to streamline the removal process. Within the first week Brazilian apprehensions started dropping precipitously, and now are averaging about 20 or less per day.

This month, Secretary Chertoff approved expanding the use of ER to the remaining Southwest Border Sectors. DHS expects that ER, and the associated general rule of detention pending removal, will become a significant tool to deter future illegal migration between the ports of entry, particularly for non-Mexican illegal alien nationals who transit through Mexico.

In closing, CBP Border Patrol is tasked with a very complex, sensitive, and difficult job, which historically has presented immense challenges. We face these challenges every day with vigilance, dedication to service, and integrity as we work to strengthen national security and protect America and its citizens. Mr. Chairman, I want to take this opportunity to thank you, as well as Ms. Sanchez, and each Member of this Subcommittee for your strong support of all of the men and women of U.S. Customs and Border Protection, including the Border Patrol. We appreciate your continuing commitment to border security and we are grateful for your support. I would be pleased to respond to any questions that you might have at this time.

- # # # -